

App. No. 10/604,512  
Amendment dated March 30, 2006 (accompanying RCE)  
Reply to Office action of November 30, 2006

## **REMARKS**

### ***Summary of Amendments***

1. Claims 1 through 5 were originally presented in this application. No claims have been added. Claim 2 was cancelled without prejudice in a previous paper. Claim 1 has been amended, as described in more detail below, to more particularly point out and distinctly claim the inventive material of the instant invention. Claims 1 and 3 through 5 remaining pending.

### ***Claim Rejections - 35 U.S.C. § 102***

#### **Claims 1-5; Niori et al. '246**

#### **Claims 1-5; Divakar et al. '487**

2. In the first Office action, mailed July 5, 2005, on the merits, claims 1-5 were rejected under 35 USC § 102(b) as being anticipated by *Niori et al.* (U.S. Pat. No. 6,197,246) and under 35 USC § 102(e) as being anticipated by *Divakar et al.* (U.S. Pat. App. Pub. No. 2002/0185487). In a response dated October 5, 2005, Applicants amended claim 1 to recite: "the electrode circuit diameter being greater than said predetermined diameter of the wafers that the wafer holder carries."
3. In the final Action, the Examiner again rejected claims 1-5 as being anticipated by *Niori et al.* and *Divakar et al.* Applicant's amendments and arguments filed on October 5, 2005 were not considered persuasive by the Examiner.
4. Applicant respectfully traverses this rejection to the extent that it is pertinent to amended claim 1. Claim 1 has been amended to recite:  
  
the radial distance between the periphery of the high-frequency RF power-generating electrode circuit and the periphery of the wafer holder *being greater than 2.5 mm and less than about 25 mm.*  
  
Amended claim 1 is supported by the original application in, for example, Nos. 5-7 and 15-17 of Tables I and II, respectively (fourth column from the left labeled "separation from perimeter"); no new matter has been introduced.
5. Applicant respectfully submits that claim 1, as amended is now patentable over the prior art of record in this case. Regarding, *Niori et al.*, the Examiner points out that disclosure is made of an electrode 30 having a diameter of at least 200 mm (col. 19, lines 7-11, and Fig. 7 therein) and an electrode unit 41 having a

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diameter of 205 mm (col. 19, lines 32-36, and Fig 7). Thus, the radial distance between the periphery of the electrode and the periphery of the wafer holder must be less than or equal to 2.5 mm  $[(205 - 200)/2]$ . Moreover, Niori et al. is devoid of any other teaching, disclosure, or suggestion of a radial distance from the periphery of the electrode to the periphery of the wafer holder exceeding 2.5 mm. Therefore, amended claim 1 is patently distinct over *Niori et al.* In reciting a radial distance of greater than 2.5 mm.

6. Regarding Divakar et al., the specification of this published patent application is devoid of any teaching, disclosure, or suggestion regarding the relative diameters of the electrode and wafer holder, nor regarding the radial distance between the periphery of the electrode and the periphery of the wafer holder. Therefore, Divakar et al. cannot anticipate amended claim 1. Accordingly, Applicants submit that amended claim 1 in reciting a radial distance of greater than 2.5 mm is patentably distinct over Divakar et al.
7. Applicants further submit that Fig. 7 of *Niori et al.* and Fig. 1 of *Divakar et al.* do not anticipate or render obvious amended claim 1, since there is no disclosure of any kind in either reference regarding radial distance between the periphery of the electrode and the periphery of the wafer holder, and since the above-mentioned figures are clearly not drawn to scale. MPEP 2125 states: "proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale." MPEP 2125 further states:

when the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of drawing features are of little value.

Moreover, in quoting *Hockerson-Halberstadt, Inc. v. Avia Group Int'l.*, MPEP 2125 goes on to state:

[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.

8. For the reasons set forth above, Applicant respectfully submits that independent claim 1, as amended, is patentable over the prior art of record. Independent claim 1 being allowable, it follows *a fortiori* that pending dependent claims 3 through 5 must also be allowable, since these dependent claims carry with them all the elements of independent claim 1. Accordingly, Applicant requests that the Examiner withdraw his rejections of claims 1, 3, 4, and 5.

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***Claim Rejections – 35 U.S.C. § 103***

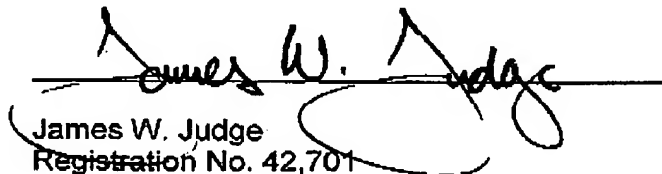
Claims 1-5; Niori et al. '246 in view of Shamouilian et al. '298

9. Claims 1 through 5 also stand rejected under § U.S.C. 103(a) as being unpatentable over *Niori et al.* in view of *Shamouilian et al.* (U.S. Pat. App. Pub. No. 2001/0003298). Applicants respectfully submit that this rejection is rendered moot in view of the remarks set forth above in sections 4-8 of this paper.

Applicants believe that this application is now in full condition for allowance, which action Applicants earnestly solicit.

Respectfully submitted,

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James W. Judge  
Registration No. 42,701

JUDGE PATENT FIRM  
Rivière Shukugawa 3<sup>rd</sup> Fl.  
3-1 Wakamatsu-cho  
Nishinomiya-shi, Hyogo 662-0035  
JAPAN

Telephone: 305-938-7119  
Voicemail/Fax: 703-997-4565